

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re	: Chapter 11 Case No.
LEHMAN BROTHERS HOLDINGS INC., et al.,	: 08-13555 (JMP)
Debtors.	: (Jointly Administered)
-----X	

**AFFIRMATION OF CLAIMANT JOHN J. DMUCHOWSKI, IN OPPOSITION  
TO DEBTORS' 313<sup>th</sup> OMNIBUS OBJECTION (TO RECLASSIFY  
PROOFS OF CLAIM AS EQUITY INTERESTS) DATED JUNE 4, 2012**

John J. Dmuchowski affirms under penalties of perjury as follows:

1. Upon information and belief, I was employed by Lehman Brothers (through numerous mergers and name changes) from 1982 through 2008. Lehman Brothers terminated my employment on 9/2008 and I was rehired by Barclays.
2. Upon the termination of my employment, Lehman Brothers assured me that my termination was an "involuntary termination without cause" as that phrase is defined in the "RSU Agreements" between Lehman Brothers and employees.
3. Upon information and belief, I executed a separation and release agreement and satisfied the "Release Requirement" set forth in the RSU Agreement.
4. Pursuant to the RSU Agreements, I recognized that I was contractually obligated to avoid engaging in any "Detrimental Activity" and that I had other ongoing contract obligations under these Agreements. *See, e.g.*, Debtors' Dec. 15 Omnibus Reply at pp. 65-68 (RSU Agreement for 2004).

5. After my entry into the RSU Agreements, including after the termination of my employment, I continued to perform all of those contractual obligations.

6. Attached hereto as Exhibit 1 is the original Proof of Claim that I filed in connection with my contract rights under the RSU Agreements. This Claim was assigned Claim No. 34401.

7. I was provided with this Proof of Claim form by Debtors. In the form provided, Debtors had largely completed the form, including inserting the caption, a bar code, supplying my name and address, and describing the Scheduled Claim as an "Executory Contract or Unexpired Lease." Debtors also provided the "Description" as a claim under a "Restricted Stock Unit Agreement."

8. On the attached Exhibit 1, all of the typed information was contained in the form when Debtors provided it to me. I added only my phone number, email address, the amount of the claim, \$5,069.83 (based on an "Executive Compensation Summary" provided by Lehman Brothers, which I attached), and my signature and date. All of these documents are attached with Exhibit 1, together with Debtors' acknowledgement of receipt of the proof of claim.

9. The practice followed each year by Lehman Brothers was to provide a form stating the bonus to which I was entitled for the year, and describing the portion of the bonus that was to be reserved by Lehman Brothers pursuant to the RSU Agreement for that year.


10. I never paid tax on the portion of any bonus reserved under the RSU Agreements. For prior years, not at issue here, after my interests vested and I was permitted to draw down on my RSU account, Lehman Brothers would retain a portion in cash to pay the federal withholding tax, and then would use the balance to provide me with Lehman Brothers shares. The entire amount of the bonus was treated as ordinary income to me and was taxed at ordinary income



rates. My understanding is that Lehman Brothers was entitled to a business expense deduction for the amount of this portion of the bonus, but only at the time that it was actually paid.

11. The economic substance of the RSU Agreements to me was that a portion of the bonus that had been declared for me was held back, and would be paid to me only after passage of five years, during which I was subject to ongoing contractual obligations. At no time did Lehman suggest that I had ever failed to perform any of these contractual obligations, the breach of which could result in rescission of my bonus. However, under the terms of the RSU Agreements, Lehman Brothers was not required to pay me anything from this reserved bonus, and in fact Lehman Brothers did not pay me anything, until five years after we entered into that RSU Agreement.

12. Even after vesting I was not permitted to draw down on the shares until five years after the date of the RSU Agreement. During this entire time my right to draw down on the shares was contingent on my continued performance of contract obligations. Even after I was terminated without cause, my right to draw down on the shares depended upon my continued observance of certain contract obligations.



Signature

John J. Dmuchowski  
Printed Name

Dated: July 16, 2012

# EXHIBIT 1



EPIQ SYSTEMS  
757 THIRD AVENUE  
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NEW YORK, NY 10017

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DMUCHOWSKI, JOHN J  
86 WINCHESTER DRIVE  
EAST WINDSOR, NJ 08520

December 02, 2009

### ACKNOWLEDGEMENT OF RECEIPT OF PROOF OF CLAIM

This letter serves as acknowledgement that the claim identified below has been recorded by Epiq Bankruptcy Solutions, LLC, the court-approved claims agent, on the claims register in the LEHMANN BROTHERS HOLDINGS INC. case. It is also publically available at the following website address: <http://chapter11.epiqsystems.com/LBH>. To ensure that your claim has been recorded correctly, please review the following information:

Debtor:	NO DEBTOR ASSERTED BY CREDITOR
Case Number:	NO CASEZ99
Creditor:	DMUCHOWSKI, JOHN J
Date Received:	09/23/2009
Claim Number:	34401

*Please note that nothing in this Acknowledgement should be construed to mean or imply that your claim is being allowed. The Debtor may elect to object to the identified claim on various grounds.*

We strongly encourage you to review your submitted proof of claim on our website at the address listed above. To find your imaged claim, click on the "Filed Claims & Schedules" link at the top of the page, type in your claim number in the "Claim #" field, and click "Search."

**WHEN REVIEWING YOUR CLAIM, PLEASE BE AWARE OF ANY PERSONALLY IDENTIFIABLE INFORMATION ("PII") SUBMITTED BY YOU.** PII can include information used to distinguish or trace an individual's identity, such as their social security number, biometric records, drivers license number, account number, credit or debit card number (including any passwords, access codes or PIN numbers), etc., alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc.

The Proof of Claim Form allows for redacted documents. If you identify any PII in your filed claim, please contact us immediately at (646) 282-2400 or via our contact form on our website at <http://www.epiq11.com/contact.aspx> so we may assist you in redacting this information. Please be sure to specify the client/debtor about which you are inquiring.

You may also contact by either of the methods listed above should you have any other questions.

EPIQ BANKRUPTCY SOLUTIONS, LLC



United States Bankruptcy Court Southern District of New York  
Lehman Brothers Holdings (Claims Processing Center)  
c/o Epiq Bankruptcy Solutions, LLC  
PJR Station, P.O. Box 5076  
New York, NY 10150-5076

In Re:  
Lehman Brothers Holdings Inc., et al.  
Debtors.

Chapter 11  
Case No. 12-13555 (JMP)  
Jimmy Adamopoulos

Name of Debtor System Which is Used

Case No. of Debtor

# **PROOF OF CLAIM**

Filed: USBC - Southern District of New York  
Lehman Brothers Holdings Inc., et al.  
08-13555 (JMP) 00000344.1



THIS SPACE IS FOR COURT USE ONLY

NOTE: This form should not be used to check a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense must be filed pursuant to 11 U.S.C. § 503. Furthermore, this form should not be used to make a claim for claims, Pre-petition Secured claims, definition on reverse side.

Name and address of Creditor (and name and address where notices should be sent if different from Creditor)

John J Dmuchowski  
86 Winchester Drive  
East Windsor NJ 08520

609 658-7466

jdmuch@yahoo.com

Name and address where payment should be sent (if different from above)

609 658-7466

jdmuch@yahoo.com

☐ Check this box to indicate that this claim amends a previously filed claim.

Court Claims Number: (if known)

Filed on:

**RESTRICTED STOCK UNIT AGREEMENT**

☐ Check this box if you are a party to a claim that has been filed in proof of claim relating to your claim. Attach copy of statement showing particulars.

☐ Check this box if you are the debtor or debtor in this case.

1. Amount of Claim as of Date Case Filed: \$ 500,000.00

If all or part of your claim is secured, complete Item 4 below; however, if all of your claim is unsecured, do not complete item 4.

If all or part of your claim is entitled to priority, complete Item 5.

If all or part of your claim qualifies as an Administrative Expense under 11 U.S.C. § 503(b)(9), complete Item 6.

☐ Check this box if all or part of your claim is based on a Derivative Contract.

Check this box if all or part of your claim is based on a Guarantee.

\*IF YOUR CLAIM IS BASED ON AMOUNTS OWED PURSUANT TO EITHER A DERIVATIVE CONTRACT OR A GUARANTEE OF A DEBTOR, YOU MUST ALSO LOG ON TO <http://www.lehmanclaims.com> AND FOLLOW THE DIRECTIONS TO COMPLETE THE APPLICABLE QUESTIONNAIRE AND UPLOAD SUPPORTING DOCUMENTATION OR YOUR CLAIM WILL BE DISALLOWED.

☐ Check this box if your claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of interest or additional charges. Attach itemized statement of interest or charges to this form or on <http://www.lehman-claims.com> if claim is a based on a Derivative Contract or Guarantee.

2. Basis for Claim: EMPLOYEE COMPENSATION

(See instruction #2 on reverse side)

3. Last four digits of any number by which creditor identifies debtor:

a. Debtor may have scheduled account as:

(See instruction #3 on reverse side)

4. Secured Claim (See instruction #4 on reverse side)

Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.

Nature of property or right of setoff: ☐ Real Estate ☐ Motor Vehicle ☐ Other

Describe:

Value of Property: \$ \_\_\_\_\_ Annual Interest Rate: \_\_\_\_\_ %

Amount of principal and other charges as of the case filed included in secured claim, if any:

\$ \_\_\_\_\_ Basis for perfection: \_\_\_\_\_

Amount of Secured Claim: \$ \_\_\_\_\_ Amount Unsecured: \$ \_\_\_\_\_

6. Amount of Claim that qualifies as an Administrative Expense under 11 U.S.C. § 503(b)(9): \$ \_\_\_\_\_

(See instruction #6 on reverse side)

7. Creditors: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.

8. Documents: Attach reduced copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of account, contracts, judgments, mortgages and security agreements. Attach reduced copies of documents purporting to be evidence of perfection of a security interest. (See definition of "perfected" on reverse side.) If the documents are voluminous, attach a summary. DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

If the documents are not available, please explain:

Date: 9/21/09 Signature: \_\_\_\_\_ The person filing this claim must sign a sworn and verified statement, if any, of the creditor or other person authorized to file the claim and state under penalty of perjury that the information is true and correct to the best of their knowledge.

Penalty for filing a false statement: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

FOR COURT USE ONLY

**FILED / RECEIVED**

SEP 23 2009

EPIC BANKRUPTCY SOLUTIONS, LLC



Personal Award Summary

Page 1 of 1

LEHMAN BROTHERS | LehmanLive

Data as of August 31, 2008

10019337 John J. Dmuchowski

AWARD UNITS<sup>1</sup> OUTSTANDING

Grant Date	Description	Grant Price	Grant Value <sup>2</sup>	Restriction Ends	Units Granted	Dividend Equivalents	Units Delivered	Units Vested <sup>3</sup>	Units Outstanding	Market Value at \$0.192*
07/01/2008	July 2008 RSU	\$20.9600	\$166	11/30/2011	7.90	0.09	0.00	0.00	7.99	\$2
12/07/2007	2007 Firmwide Principal	\$47.6000	\$621	11/30/2012	13.04	0.27	0.00	0.00	13.31	\$3
12/07/2007	2007 Firmwide Discount	\$47.6000	\$207	11/30/2012	4.35	0.05	0.00	0.00	4.40	\$1
12/08/2006	2006 Firmwide Principal	\$57.7700	\$632	11/30/2011	10.94	0.32	0.00	0.00	11.26	\$2
12/08/2006	2006 Firmwide Discount	\$57.7700	\$210	11/30/2011	3.64	0.05	0.00	0.00	3.69	\$1
11/30/2005	2005 Firmwide Principal	\$47.2500	\$535	11/30/2010	11.32	0.42	0.00	11.74	11.74	\$2
11/30/2005	2005 Firmwide Discount	\$47.2500	\$178	11/30/2010	3.76	0.05	0.00	0.00	3.81	\$1
12/09/2004	2004 Firmwide Principal	\$32.1750	\$530	11/30/2009	16.48	0.73	0.00	17.21	17.21	\$3
12/09/2004	2004 Firmwide Discount	\$32.1750	\$177	11/30/2009	5.50	0.10	0.00	0.00	5.60	\$1
12/10/2003	2003 Firmwide Principal	\$26.7700	\$501	11/30/2008	18.70	1.02	0.00	19.72	19.72	\$4
12/10/2003	2003 Firmwide Discount	\$26.7700	\$167	11/30/2008	6.24	0.15	0.00	0.00	6.39	\$1
Total			\$3,924		101.87	3.25	0.00	48.67	105.12	\$21
Total Equity										\$21

\* Market value refers to the value of the underlying Lehman Brothers Holdings Inc. shares at the indicated stock price. The intrinsic value of stock options is calculated by multiplying the number of options outstanding by the difference between the indicated stock price and the option exercise price. Please note that the current market price is based on a delayed 20 minutes feed from Reuters. (09:39 AM EDT on September 21 2009)

<sup>1</sup> Award Units are those equity-based awards other than stock options, i.e. Restricted Stock Units, Conditional Equity Awards or Contingent Stock Awards, as applicable.

<sup>2</sup> Grant Value refers to the value of the underlying Lehman Brothers Holdings Inc. shares at the indicated grant price.

<sup>3</sup> Units Vested refers to that portion of the award that has become vested and/or subject to limited conditions, as determined under the applicable plan documents.



FMV	UNITS Granted	UNITS PRICE	TOTAL VALUE
7/1/2008	7.9	20.96	165.58
12/7/2007	13.04	63.47	827.65
12/7/2007	4.35	63.47	275.09
12/8/2006	10.94	77.03	842.71
12/8/2006	3.64	77.03	280.39
11/30/2005	11.32	61.08	691.43
11/30/2005	3.76	61.08	229.66
12/9/2004	16.48	41.27	680.13
12/9/2004	5.5	41.27	226.99
12/10/2003	18.7	34.05	636.74
12/10/2003	6.24	34.05	212.47
	101.87		5,069.83